

2. Second plea in law, alleging a manifest error of assessment on the part of the Commission.
 - The Commission did not carry out sufficient enquiries relating to the case, with the result that it made its decision on the basis of incomplete and erroneous information.
 - The Commission's errors of assessment concern, at least, the question whether the transfer of activity complied with market conditions, its objective and its economic rationale.
3. Third plea in law, alleging that the reasons given for the contested decision did not satisfy the requirements of Article 296 TFEU and the case-law relating thereto.
 - That complaint concerns in particular to the reasons relating to the question whether the price at which the activity of HelB was transferred complied with market conditions.
4. Fourth plea in law, alleging that the contested decision is contrary to the general principles of Union law, in particular the principle of legitimate expectations and the principle of proportionality.
 - The applicant could legitimately believe, firstly, that the examination carried out by the Commission concerned only the measures and persons identified in the decision to open the formal investigation procedure, and, secondly, that if the examination was extended to the sale of the activity or to its person, the Commission would consequently extend the decision relating to the formal examination procedure and would hear it.
 - The repayment obligation must, as regards the initial beneficiary, in any event be considered to be contrary to the principle of proportionality in so far as it exceeds the price which was actually paid for the repurchase of the activity and, as regards the applicant, in so far as it exceeds the difference between the sale price, which is allegedly underestimated, and the fair price.
5. Fifth plea in law, alleging that the contested decision is based on a manifestly erroneous application of Article 107(1) TFEU.
 - The measures identified in the Commission's decision did not involve unlawful State aid.
 - None of the measures classified as unlawful State aid by the Commission was applicable to the applicant.

Action brought on 9 September 2019 — EP v Commission

(Case T-605/19)

(2019/C 383/74)

Language of the case: French

Parties

Applicant: EP (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision not to promote the applicant to grade AD 9 under the 2018 promotion procedure;

— order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging an inadequate statement of reasons provided in the reply rejecting the complaint, in particular having regard to the fact that the Joint Promotions Committee recommended that the applicant be promoted.
2. Second plea in law, alleging infringement of Article 45 of the Staff Regulations of Officials of the European Union (‘the Staff Regulations’) by the Appointing Authority inasmuch as it did not actually carry out an examination of the comparative merits of all the officials eligible for promotion.
3. Third plea in law, alleging that the contested decision is vitiated, in any event, by manifest errors of assessment, on the basis of the statement of grounds available for that decision.
4. Fourth plea in law, alleging infringement of Article 24b of the Staff Regulations and of the sixth paragraph of Article 1 of Annex II to the Staff Regulations, inasmuch as the applicant was penalised on account of the staff representation duties he performs.

Action brought on 20 September 2019 — Shindler and Others v European Commission

(Case T-627/19)

(2019/C 383/75)

Language of the case: French

Parties

Applicants: Harry Shindler (Porto d’Ascoli, Italy) and five other applicants (represented by: J. Fouchet, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the European Commission’s express refusal of 13 September 2019 to acknowledge a failure to act;
- rule that the European Commission unlawfully failed to take:
 - first, a decision safeguarding the European citizenship of applicants of the United Kingdom who enjoy a private and family life in the other Member States of the European Union and did not have the right to vote on whether their Member State of origin should leave the European Union, based solely on the exercise of their freedom of movement (‘the 15-year rule’), irrespective of whether or not there is an agreement on the United Kingdom’s withdrawal from the European Union,
 - secondly, a binding decision uniformly applicable in the other 27 Member States of the European Union in which citizens of the United Kingdom live, comprising various measures with regard to entry, stay, social rights and occupation, to apply in the absence of an agreement on the United Kingdom’s withdrawal from the European Union;